

### **REMARKS/ARGUMENTS**

The Applicant originally submitted Claims 1-22 in the application. Previously, in an election requirement, Claims 1, 3, 5-7, 9, 11, 14, 16, 18 and 21 were elected and Claims 2, 4, 8, 10, 12-13, 15, 17, 19-20 and 22 were withdrawn. In the present response, the Applicant has amended independent Claims 1, 9, and 16. Support for the amendment can be found, *e.g.*, in the paragraphs of the original specification: beginning on line 15 and ending on line 29 of page 6; beginning on line 11 and ending on line 23 of page 7; and beginning on line 7 and ending on line 23 of page 8. No other claims have been canceled or added. Accordingly, Claims 1, 3, 5-7, 9, 11, 14, 16 and 21 are currently pending in the application.

#### **I. Rejection of Claims 1, 3, and 5-6 under 35 U.S.C. §102**

The Examiner has rejected Claims 1, 3, and 5-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,936,786 to Go (hereinafter “Go”). The Applicant believes the invention as presently claimed, however, is neither shown nor suggested in the cited portions of Go. More specifically, the Applicant fails to find where Go teaches or suggests deactivating a record circuit at or about the time of occurrence of detection of a pre-existing signal as now recited in amended independent Claim 1.

Citing the abstract, lines 53-67 of column 1, line 16 of column 2 through line 39 of column 3, and claims 1-6, the Examiner asserts that Go teaches “a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media...” (See Final Rejection of March 19, 2009, page 3.) Claim 1, however, has

been amended to more clearly point out that the record deactivation circuit prevents recording on the magnetic storage media at or about the time of occurrence of the detection of the pre-existing information signal. The cited portion of Go relied upon by the Examiner teaches that audio control head 300 scans the entire tape, detects whether the medium is recorded with an audio signal at a portion of a tape, and then outputs a control signal to servo system 310 based on whether a recorded signal is detected. (See, e.g., lines 15-19 of column 3, emphasis added.) Thus, the cited portion of Go teaches scanning an entire tape to locate recorded and non-recorded portions of a tape prior to activation or de-activation of a recording circuit. As such, the cited portion of Go does not teach or suggest deactivating a record circuit at or about the time of occurrence of detection of a pre-existing signal, but, rather teaches deactivating a record circuit after the time of occurrence of detection of a pre-existing signal.

Therefore, in view of the amendment, Go does not anticipate independent Claim 1 and Claims that depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102(b) rejection of Claims 1, 3, and 5-6 and allow issuance thereof.

## **II. Rejection of Claim 7 under 35 U.S.C. §103**

The Examiner has rejected Claim 7 under 35 U.S.C. §103(a) as being unpatentable over Go in view of Official Notice. As noted above, the cited portions of Go relied upon by the Examiner do not teach or suggest presently amended independent Claim 1 and Claims that depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claim 7 and allow issuance thereof.

### III. Rejection of Claims 1, 3, and 5-7 under 35 U.S.C. §103

The Examiner has rejected Claims 1, 3, and 5-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,442,108 to Kurihara, *et al.* (hereinafter “Kurihara”) in view of Go. The Applicant believes the invention as presently claimed, however, is neither shown nor suggested in the cited portions the cited combination of Kurihara and Go, as applied by the Examiner. More specifically, the Applicant fails to find where the cited portions of Kurihara and Go teach or suggest deactivating a record circuit at or about the time of occurrence of detection of a pre-existing signal as now recited in amended independent Claim 1.

The Examiner recognizes that Kurihara does not teach or suggest “a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media” and cites Go to cure this deficiency. (*See* Final Rejection of March 19, 2009, page 5.) As established above, Go does not teach or suggest deactivating a record circuit at or about the time of occurrence of a pre-existing signal as recited in presently amended independent Claim 1. As such, Go does not cure the deficiencies of Kurihara that the Examiner recognizes and, as a result, the cited portions of the cited combination of Kurihara and Go do not render Claims 1, 3, and 5-7 unpatentable, in view of the amendment.

Furthermore, Kurihara also does not teach or suggest deactivating a record circuit at or about the time of occurrence of detection of a pre-existing signal. As depicted in Fig. 6, Kurihara teaches a DAT 15 is rewound to a starting position and a table of contents (TOC) at that position is updated with, *inter alia*, a last song information next address An+1 after a recording of each song on DAT 15. When the TOC is updated with the next address An+1, the DAT 15 is rewound to that address

and a next song is sequentially recorded from that address. Again, after the next song is recorded, a new next address  $An+1$  is acquired, DAT 15 is rewound to a starting position, and the TOC is updated with the new  $An+1$  address. (*See, e.g.*, line 19 of column 5 through line 27 of column and Fig. 6.) Thus, Kurihara teaches a TOC is used to pass over, or de-activate recording on, pre-existing data by rewinding a DAT to a location where a song can be recorded prior to activating the recording of the song. As such, Kurihara does not teach or suggest deactivating a record circuit at or about the time of occurrence of detection of a pre-existing signal, but, rather teaches deactivating a record circuit after the time of occurrence of detection of a pre-existing signal.

Therefore, for at least the reasons given above, the cited portions of the cited combination of Kurihara and Go do not, in view of the amendment, render independent Claim 1 and Claims that depend thereon unpatentable. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 1, 3, and 5-7 and allow issuance thereof.

#### **IV. Rejection of Claims 9, 11, 14, 16, 18, and 21 under 35 U.S.C. §103**

The Examiner has rejected Claims 9, 11, 14, 16, 18, and 21 under 35 U.S.C. §103(a) as being unpatentable over Kurihara in view of Official Notice. As established above, Kurihara does not teach suggest the limitation of deactivating a record circuit as detection of a pre-existing signal occurs as recited in presently amended independent Claim 1. Analogously, Kurihara does not teach this limitation in presently amended independent Claims 9 and 16. Official Notice has not been cited to cure the above-noted deficiencies of Kurihara but to assert that it is well known in the art at the time of the invention was made to record video signal in tape. (See Final Rejection of March 19, 2009, page 6.) As such, Kurihara in combination with Official Notice does not provide a *prima facie*

case of obviousness for presently amended independent Claims 9 and 16 and Claims that depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 9, 11, 14, 16, 18, and 21 and allow issuance thereof.

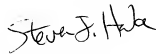
#### **V. Conclusion**

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1, 3, 5-7, 9, 11, 14, 16, 18 and 21.

The Applicant requests the Examiner to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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